

Appl No.: 10/723,078

Atty. Dkt.
PC-1609**REMARKS/ARGUMENTS**

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 9, 10, canceled claims 5-9 and 11-17 and added new claims 18-24. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Applicant gratefully appreciates the examiner's indication that claim 16 contains allowable subject matter if appropriately amended.

As to the restriction requirement, applicant incorporates the arguments set forth in the previous response with traverse. As such, applicant has now cancelled the nonelected claims, and reserves the right to file a divisional application on those other embodiments.

As to the objection to the drawings, applicant has amended Figures 14-15 and the specification to reference component 213 for the strap material edge. This amendment does not raise any new issues or new matter since the filed specification and drawings show and describe this feature. Thus, removal of this objection is requested.

Claims 1 and 13-15 were rejected under sec. 102c as being anticipated by Freedman. This rejection is now moot since former dependent claim 16, which was indicated by the examiner to contain allowable subject matter, has now been included into independent claim 1. Thus, removal of this rejection is respectfully requested.

New independent claim 18 claims similar features to now amended claim 1 and is also believed to be allowable for similar reasons. New claims 19-24 refer to the elected embodiment of Figures 9-14, which are described in detail on pages 12-14 of the specification. These features are also believed to be allowable. The novel "strap material" running down a "middle portion" of the "top lid" and the "bottom cover" are clearly not described, taught or suggested by the references of record.

The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor's specification to make the necessary changes in the reference device. Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

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There is no teaching, nor suggestion for modifying the references of record to include all the novel features of the amended claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vacck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant contends the references cannot be modified to incorporate the features of subject claims 1-4, 9, 10 and 18-24 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

In view of the foregoing considerations, it is respectfully urged that claims 1-4, 9, 10 and 18-24 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;


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